

**MINUTES
of the
FIRST MEETING
of the
WATER AND NATURAL RESOURCES COMMITTEE**

**June 16, 2008
Santa Fe**

The first meeting of the Water and Natural Resources Committee was called to order at 10:10 a.m. on Monday, June 16, 2008, by Representative Andy Nuñez, chair, in Room 307 of the State Capitol in Santa Fe.

Present

Rep. Andy Nuñez, Chair
Rep. Paul C. Bandy
Rep. Elias Barela
Sen. Sue Wilson Beffort
Rep. Ray Begaye
Rep. Joseph Cervantes
Sen. Dede Feldman
Sen. Mary Jane M. Garcia
Rep. Dona G. Irwin
Rep. Larry A. Larrañaga
Rep. Kathy A. McCoy
Sen. Mary Kay Papen
Rep. Mimi Stewart
Rep. Don L. Tripp

Advisory Members

Sen. Vernon D. Asbill
Sen. Carlos R. Cisneros
Rep. Anna M. Crook
Rep. Nora Espinoza
Rep. Candy Spence Ezzell
Rep. Ben Lujan
Rep. James Roger Madalena
Sen. Cisco McSorley
Rep. Danice Picraux
Rep. Henry Kiki Saavedra
Rep. James R.J. Strickler

Absent

Sen. Phil A. Griego, Vice Chair
Sen. Clinton D. Harden, Jr.
Sen. Cynthia Nava
Sen. Steven P. Neville

Sen. Rod Adair
Sen. Timothy Z. Jennings
Sen. Gay G. Kernan
Sen. Leonard Lee Rawson
Sen. Nancy Rodriguez
Sen. John C. Ryan
Rep. Peter Wirth
Rep. Eric A. Youngberg

Guests

The guest list is in the original meeting file.

Staff

Gordon Meeks
Jon Boller
Jeret Fleetwood

Monday, June 16

Representative Nuñez began the meeting by having members of the committee introduce themselves.

Interim Committee Meeting Protocols

Paula Tackett, director, Legislative Council Service (LCS), explained to the committee that, in response to concerns the Legislative Council had raised about misunderstandings regarding interim committee protocol, the council authorized her to make a presentation about those protocols at each committee's organizational meeting.

Ms. Tackett began by discussing quorums, pointing out that a quorum of any deliberative body must be present in order for that body to conduct business. She explained that a quorum is 50 percent of the voting members, plus one, and noted that a quorum for the Water and Natural Resources Committee would be 10 voting members. Ms. Tackett went on to explain that once established, a quorum is presumed to exist unless the lack of one is exposed by a question of no quorum or a roll call vote. She also noted that, since a quorum is presumed to exist, committees may take voice votes or consensus votes even when it is clear that a quorum is lacking.

Ms. Tackett also explained that committees may also convene themselves as special subcommittees for the limited purpose of hearing testimony on the agenda. She explained that convening as a subcommittee allows members and presenters who may have traveled long distances to attend the meeting to hear or provide testimony as well as allowing members to be paid per diem and mileage. Ms. Tackett indicated that subcommittee members may only be paid if one of two conditions is met: all the members in attendance (voting, advisory and one-time attendees) add up to the number of voting members required for a quorum; or the chair or vice chair is present along with one member from each chamber and each party.

Ms. Tackett went on to point out that the Legislative Council routinely authorizes the speaker and president pro tempore to adjust membership of the committees as necessary in consultation with the respective minority leaders, which allows them to make last-minute substitutions to most committees in order to attain the number required for a quorum. However, Ms. Tackett emphasized that such authorization has not been construed as to allow the speaker or the president pro tempore to adjust the make-up of the committee for the apparent purpose of stacking the committee for a vote on a controversial subject. Ms. Tackett also discussed the ability of a member to resign from an interim committee at any time.

Ms. Tackett then provided the committee with details regarding interim committee voting, specifically pointing out that only voting members may vote. She also outlined the

blocking provision, which allows a majority of the members appointed from one chamber to a committee to block the action of the other chamber, despite the fact that a majority of the members present may have voted in favor of that action.

Finally, Ms. Tackett provided the committee with a brief overview of the use of the sound system in the capitol's meeting rooms, seating at the dais in those meeting rooms, seating of staff in committee rooms and the development of the calendar by the LCS to minimize meeting conflicts between voting members.

Status Reports

John D'Antonio, state engineer, provided the committee with an overview of several of the issues confronting the Office of the State Engineer (OSE). He began by discussing the status of several of the various Native American water rights settlements involving the OSE. Mr. D'Antonio explained that some of the settlements, such as the Navajo Water Rights Settlement, have already been negotiated and are currently awaiting approval by Congress, while others, such as the *Aamodt* settlement, are still being negotiated.

Mr. D'Antonio also discussed several of the other major water projects either underway or being planned in New Mexico, such as the Ute Pipeline project and the implementation of the Pecos settlement. He also provided the committee with an estimate of the costs associated with the water settlements and projects he discussed, which total roughly \$67 million.

Mr. D'Antonio also raised the issue of dam safety in New Mexico, pointing out that 142 dams in New Mexico have been deemed deficient by OSE standards. He indicated that one of the major obstacles to dam safety issues in the state is the lack of a competitive pay band to fill dam safety position vacancies on the OSE staff. Mr. D'Antonio also provided the committee with an overview of the costs associated with dam safety over the next five to 10 years, including \$186,200 for two permanent dam safety engineer positions, \$1 million for three years to prioritize the deficient dams and \$5 million a year to plan, design and perform construction upgrades to deficient dams.

Estevan Lopez, director of the Interstate Stream Commission (ISC), provided the committee with status updates regarding the Rio Grande, Pecos River and Canadian River basins. He explained that the ISC has worked on the Endangered Species Collaborative Program and Pilot Channel along the Rio Grande and has avoided interstate litigation between New Mexico and Texas over the river.

Mr. Lopez went on to discuss the ISC's work along the Pecos River. He noted that the ISC has almost completed its land and water rights acquisition as laid out in the Pecos River settlement plan. He also pointed out that New Mexico has built a cumulative compact credit with Texas of 67,300 acre-feet of water, a historic high.

Questions and comments included:

- the use of augmentation wells along the Pecos River;
- online use of OSE databases by the public;
- an OSE office along the middle Rio Grande;
- commitment of local governments funding their portion of water settlements;
- the importance of federal funding for settlement implementation;
- the total number of dams in New Mexico versus the number of ones deemed unsafe;
- adjudication issues along the lower Rio Grande;
- water licenses versus water rights;
- the ability of the state to continue to function and administer water without being fully adjudicated;
- the source of water rights obtained by the state along the Rio Grande; and
- the relationship between conservancy districts and the OSE.

2008 Interim Work Plan, Itinerary and Meeting Schedule

Staff provided the committee with a list of potential agenda items for discussion throughout the interim and potential meeting dates and sites.

Representative Barela suggested that the committee meet in September in Isleta or Belen instead of Artesia.

On a motion made, seconded and approved, the committee changed its proposed September meeting location from Artesia to Belen and Isleta, with Representatives Bandy, Irwin, Larrañaga and Nuñez and Senator Papen voting no.

The committee also changed its proposed October 27-28 meeting from Isleta and Santa Fe to Artesia.

Speaker Lujan reminded the committee that holding a meeting outside the State Capitol in October would require the approval of the Legislative Council.

The following meeting dates and locations were also approved:

- July 14-15 (Aztec);
- August 18-19 (Las Cruces, for a joint meeting with the Courts, Corrections and Justice Committee); and
- November 24-25 (Santa Fe).

The committee also moved to reconstitute the adjudications subcommittee with the same membership as the 2007 interim:

- Senator Papen, chair;
- Representative Begaye;
- Representative Cervantes;
- Representative Ezzell;
- Representative McCoy;
- Representative Larrañaga;

- Senator McSorley;
- Senator Ryan; and
- Representative Wirth.

There being no further business, the committee adjourned at 1:00 p.m.